

ASSEMBLY BILL

No. 1215

Introduced by Assembly Member Benoit

February 23, 2007

An act to amend Section 23152 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 1215, as introduced, Benoit. Vehicles: DUI.

(1) Existing law prohibits a person who has specified level of alcohol in his or her blood from driving a vehicle. It is a crime for a person to violate this prohibition.

This bill would prohibit a person who has a measurable amount of a controlled substance in his or her blood from driving a vehicle, thereby creating a new crime.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 23152 of the Vehicle Code, as amended
2 by Section 31 of Chapter 455 of the Statutes of 1995, is amended
3 to read:

1 23152. (a) It is unlawful for ~~any~~ a person who is under the
2 influence of any alcoholic beverage or drug, or under the combined
3 influence of any alcoholic beverage and drug, to drive a vehicle.

4 (b) (1) It is unlawful for ~~any~~ a person who has 0.08 percent or
5 more, by weight, of alcohol in his or her blood to drive a vehicle.

6 ~~For~~

7 (2) *For* purposes of this article and Section 34501.16, percent,
8 by weight, of alcohol in a person's blood is based upon grams of
9 alcohol per 100 milliliters of blood or grams of alcohol per 210
10 liters of breath.

11 ~~In~~

12 (3) *In* any prosecution under this subdivision, it is a rebuttable
13 presumption that the person had 0.08 percent or more, by weight,
14 of alcohol in his or her blood at the time of driving the vehicle if
15 the person had 0.08 percent or more, by weight, of alcohol in his
16 or her blood at the time of the performance of a chemical test
17 within three hours after the driving.

18 (c) It is unlawful for ~~any~~ a person who is addicted to the use of
19 any drug to drive a vehicle. This subdivision shall not apply to a
20 person who is participating in a narcotic treatment program
21 approved pursuant to Article 3 (commencing with Section 11875)
22 of Chapter 1 of Part 3 of Division 10.5 of the Health and Safety
23 Code.

24 (d) (1) It is unlawful for ~~any~~ a person who has 0.04 percent or
25 more, by weight, of alcohol in his or her blood to drive a
26 commercial motor vehicle, as defined in Section 15210.

27 ~~In~~

28 (2) *In* any prosecution under this subdivision, it is a rebuttable
29 presumption that the person had 0.04 percent or more, by weight,
30 of alcohol in his or her blood at the time of driving the vehicle if
31 the person had 0.04 percent or more, by weight, of alcohol in his
32 or her blood at the time of the performance of a chemical test
33 within three hours after the driving.

34 (e) (1) *It is unlawful for a person who has a measurable amount*
35 *of a controlled substance in his or her blood to drive a vehicle.*

36 (2) *For the purposes of this subdivision, "controlled substance"*
37 *shall have the same meaning as set forth in subdivision (c) of*
38 *Section 15210.*

39 (3) *In any prosecution under this subdivision, it is a rebuttable*
40 *presumption that the person had a measurable amount of a*

1 *controlled substance in his or her blood at the time of driving the*
2 *vehicle if the person had a measurable amount of the controlled*
3 *substance in his or her blood at the time of the performance of a*
4 *chemical test within three hours after the driving.*

5 ~~(e)–~~

6 (f) This section shall become operative on January 1, 1992, and
7 shall remain operative until the director determines that federal
8 regulations adopted pursuant to the Commercial Motor Vehicle
9 Safety Act of 1986 (49 U.S.C. Sec. 2701 et seq.) contained in
10 Section 383.51 or 391.15 of Title 49 of the Code of Federal
11 Regulations do not require the state to prohibit operation of
12 commercial vehicles when the operator has a concentration of
13 alcohol in his or her blood of 0.04 percent by weight or more.

14 ~~(f)–~~

15 (g) The director shall submit a notice of the determination under
16 subdivision (e) to the Secretary of State, and this section shall be
17 repealed upon the receipt of that notice by the Secretary of State.

18 SEC. 2. Section 23152 of the Vehicle Code, as amended by
19 Section 32 of Chapter 455 of the Statutes of 1995, is amended to
20 read:

21 23152. (a) It is unlawful for any person who is under the
22 influence of any alcoholic beverage or drug, or under the combined
23 influence of any alcoholic beverage and drug, to drive a vehicle.

24 (b) (1) It is unlawful for any person who has 0.08 percent or
25 more, by weight, of alcohol in his or her blood to drive a vehicle.

26 ~~For~~

27 (2) For purposes of this article and Section 34501.16, percent,
28 by weight, of alcohol in a person's blood is based upon grams of
29 alcohol per 100 milliliters of blood or grams of alcohol per 210
30 liters of breath.

31 ~~In~~

32 (3) In any prosecution under this subdivision, it is a rebuttable
33 presumption that the person had 0.08 percent or more, by weight,
34 of alcohol in his or her blood at the time of driving the vehicle if
35 the person had 0.08 percent or more, by weight, of alcohol in his
36 or her blood at the time of the performance of a chemical test
37 within three hours after the driving.

38 (c) It is unlawful for any person who is addicted to the use of
39 any drug to drive a vehicle. This subdivision shall not apply to a
40 person who is participating in a narcotic treatment program

1 approved pursuant to Article 3 (commencing with Section 11875)
2 of Chapter 1 of Part 3 of Division 10.5 of the Health and Safety
3 Code.

4 *(d) (1) It is unlawful for a person who has a measurable amount*
5 *of a controlled substance in his or her blood to drive a vehicle.*

6 *(2) For the purposes of this subdivision, "controlled substance"*
7 *shall have the same meaning as set forth in subdivision (c) of*
8 *Section 15210.*

9 *(3) In any prosecution under this subdivision, it is a rebuttable*
10 *presumption that the person had a measurable amount of a*
11 *controlled substance in his or her blood at the time of driving the*
12 *vehicle if the person had a measurable amount of the controlled*
13 *substance in his or her blood at the time of the performance of a*
14 *chemical test within three hours after the driving.*

15 ~~(d)~~

16 *(e)* This section shall become operative only upon the receipt
17 by the Secretary of State of the notice specified in subdivision (f)
18 of Section 23152, as added by Section 25 of Chapter 1114 of the
19 Statutes of 1989.

20 SEC. 3. No reimbursement is required by this act pursuant to
21 Section 6 of Article XIII B of the California Constitution because
22 the only costs that may be incurred by a local agency or school
23 district will be incurred because this act creates a new crime or
24 infraction, eliminates a crime or infraction, or changes the penalty
25 for a crime or infraction, within the meaning of Section 17556 of
26 the Government Code, or changes the definition of a crime within
27 the meaning of Section 6 of Article XIII B of the California
28 Constitution.